

REMARKS

Applicant submits this Response to Office Action in response to the Office Action dated August 24, 2007 (the "Office Action"). Applicant herewith amends the present application by: amending the title to more accurately reflect the subject matter of the presented claims, amending the specification to appropriately reflect the benefit claim to parent applications, amending the Abstract to overcome Examiner objections (see below), canceling claim 1 (without disclaimer of the subject matter thereof) and adding new claims 33-54. Claims 33-54 are therefore currently pending. No new matter has been added to the application.

Applicant notes that the present application is a continuation application under 35 U.S.C. § 120 claiming the benefit of the following prior applications:

- U.S. patent application no. 09/441,565, filed Nov. 17, 1999, now U.S. Patent No. 6,711,241, titled "Internet Telephone Service"
- U.S. patent application no. 08/670,908, filed Jun. 26, 1996, now U.S. Patent No. 6,069,890, titled "Internet Telephone Service"

Applicant presents in the present application new claims, supported by the original disclosure, and directed to additional patentable subject matter of differing scope that the claims issued from the prior applications. Applicant therefore does not ascribe to any of the arguments presented in these prior applications as to the patentability of any subject matter presented in such claims, and the Examiner should make no assumption as to the scope of the subject matter claimed by the present claims. The claims presented herein should be examined on their own merits, and not in reliance on any representations from the prior applications.

In paragraphs 1-2 of the Office Action, the Examiner has objected to the Abstract as being too lengthy. Applicant submits herewith an amended Abstract in compliance with M.P.E.P. §608.01(b) which reduces the word count of the Abstract. Applicant respectfully requests that the objection be withdrawn.

Applicant acknowledges the request of the Examiner in paragraph 3 of the Office Action to check the specification for minor error. Applicant has submitted herewith amendments to the specification where the Applicant has detected errors. Should additional errors be discovered, Applicant will notify the Examiner appropriately.

In paragraphs 4-6 of the Office Action, the Examiner rejected claim 1 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,285,745 to Bartholomew et al. ("Bartholomew") in view of U.S. Patent No. 5,608,786 to Gordon ("Gordon"). As Applicant has cancelled claim 1, the rejection of this claim is moot, and Applicant respectfully requests withdrawal of the rejection. Applicant also respectfully submits that the newly added claims 33-54 are patentable over the Bartholomew and Gordon references, either alone or in combination, for at least the following reasons.¹

Independent claim 33 recites a method that includes:

- detecting an off-hook condition of a calling station;
- subsequent to detecting the off-hook condition, receiving dialed digits from the calling station, the dialed digits indicating a call request and a telephone number of a called party;
- providing a request to a routing database, the request including at least a portion of the telephone number of the called party;
- receiving in response to the request an identity of a gateway to the called party;
- sending a first signaling message over a packet-switched data network to the gateway using the identity of the gateway, the first signaling message including the telephone number of the called party and a telephone number of the calling station;
- receiving the first signaling message at the gateway;
- formulating an SS7 signaling message in response to the first signaling message, the SS7 signaling message including the telephone number of the calling station and the telephone number of the called party;
- sending the SS7 signaling message from the gateway over a connection to a public switched telephone network (PSTN) system;
- receiving at the gateway over the connection to the PSTN system an indication that the called party is at least one of busy or available;

¹ As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims) is not a concession by Applicant that such assertions are accurate or such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future.

when the calling party is indicated busy, sending a second signaling message from the gateway over the packet-switched data network indicating the called party is busy;
when the called party is indicated available, sending a third signaling message from the gateway over the packet-switched data network indicating the called party is available;
recording billing information associated with the call request.

Neither Bartholomew nor Gordon, either taken alone or in any permissible combination, teach or suggest a method that includes all of the elements of claim 33. As just some examples, neither Bartholomew nor Gordon describe:

- receiving at the gateway over the connection to the PSTN system an indication that the called party is at least one of busy or available;
- when the calling party is indicated busy, sending a second signaling message from the gateway over the packet-switched data network indicating the called party is busy;
- when the called party is indicated available, sending a third signaling message from the gateway over the packet-switched data network indicating the called party is available.

The absence of at least these elements from both Bartholomew and Gordon demonstrates the patentability of claim 33 over these references. As claims 34-42 and 54 are dependent from claim 33, and therefore incorporate all of the limitations of claim 33, Applicants believe claims 34-42 and 54 to be patentable over Bartholomew and/or Gordon for at least the same reasons as claim 33.

Independent claim 43 recites a method including:

detecting an off-hook condition of a calling station;
subsequent to detecting the off-hook condition, providing dial tone to the calling station;
receiving dialed digits from the calling station, the dialed digits indicating a call request and a telephone number of a called party;
providing a request to a routing database, the request including the telephone number of the called party;
receiving in response to the request an address of a called party computing device associated with the telephone number of the called party;
sending a first signaling message over a packet-switched data network to the called party using the address of the called party computing device, the

first signaling message including the telephone number of the called party and a telephone number of the calling station;
establishing a voice communication between the calling station and the called party via the packet-switched data network.

Neither Bartholomew nor Gordon, either taken alone or in any permissible combination, teach or suggest a method that includes all of the elements of claim 43. As just some examples, neither Bartholomew nor Gordon describe:

- receiving in response to the request an address of a called party computing device associated with the telephone number of the called party;
- establishing a voice communication between the calling station and the called party via the packet-switched data network.

The absence of at least these elements from both Bartholomew and Gordon demonstrates the patentability of claim 43 over these references. As claims 44-53 are dependent from claim 43, and therefore incorporate all of the limitations of claim 43, Applicants believe claims 44-53 to be patentable over Bartholomew and/or Gordon for at least the same reasons as claim 43.

In paragraphs 7-9 of the Office Action, the Examiner rejected claim 1 for obviousness-type double patenting in view of U.S. Patent no. 6,711,241. Applicant has cancelled claim 1, and therefore this rejection is now moot.

In view of the foregoing, Applicant respectfully submits that the pending claims are in condition for allowance. Reconsideration and allowance are respectfully requested. If there are any outstanding issues which need to be resolved to place the application in condition for allowance, the Examiner is invited to contact Applicant's undersigned representative by phone at the number indicated below to discuss such issues. To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to deposit account number 07-2347. With respect to this application, please charge any other necessary fees and credit any overpayment to that account.

Respectfully submitted,

Date: December 19, 2007

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